

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JUNIOUS NIELSEN,

Plaintiff,

-v-

J.C. PENNY COMPANY, INC.

Defendant.
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/9/2024

ORDER

23-CV-5619 (JGLC) (HJR)

HENRY J. RICARDO, United States Magistrate Judge.

Pro se plaintiff Junious Nielsen brought this action against defendant J.C. Penny Company, Inc., which the Court understands to be the department store JCPenney. Nielsen moved for default judgment on May 1, 2024. Dkt. No. 50. On July 24, 2024, Magistrate Judge James L. Cott denied this motion without prejudice, finding that Nielsen failed to plead an adequate cause of action, because he did not allege that his military status was a motivating factor in his termination, as required by USERRA. Dkt. No. 58 at 3–4. By August 9, 2024, Nielsen was directed to file a supplemental letter “explain[ing] . . . the basis for why he is alleging that JCPenney’s termination of his employment was motivated by his military service and not for some other reason” or an amended complaint that “supplements and expands on his prior complaint to address the issues raised by this Order.” *Id.* at 4. On September 6, 2024, Nielsen was given until September 26, 2024, to file his supplemental material or amend his complaint, or else the case would be dismissed. Dkt. No. 60.

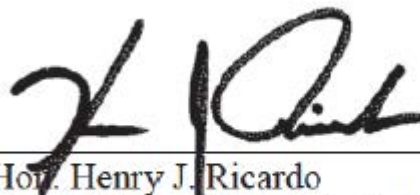
Nielsen filed a supplemental letter before the September 26 deadline. Dkt. No. 61. Reading this letter in light of the special solicitude given to *pro se* parties, Nielsen has addressed the deficiencies identified in Judge Cott's order. Accordingly, dismissal is not appropriate at this time.

As Nielsen's previous motion for default was denied without prejudice, there is currently no motion pending. If Nielsen wishes to again move for default, he should file a new motion. Any such motion is due by **December 6, 2024**.

The Clerk of Court is respectfully directed to mail a copy of this order to the plaintiff.

SO ORDERED.

October 9, 2024
New York, New York



Hon. Henry J. Ricardo
United States Magistrate Judge